

HONORABLE MICHELLE L. PETERSON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WILD FISH CONSERVANCY,

Plaintiff,

v.

BARRY THOM, *et al.*,

Defendants.

Case No. 2:20-cv-00417-RAJ-MLP

SECOND DECLARATION OF
PETER W. SOVEREL

I, Peter W. Soverel, declare the following on the basis of personal knowledge to which I am competent to testify:

1. I have lived in Washington State since December 1968. I have resided at 16430 72nd Avenue W., Edmonds, WA 98026 since November 1987.

2. I am currently a member of Wild Fish Conservancy and have been a member since the beginning of the organization and its predecessor, Washington Trout, nearly 30 years ago. I am a member because I believe that the organization is a leading light in Washington State for promoting policies and practices that conserve and restore wild steelhead stocks and other marine animals throughout the Pacific Northwest. I support the efforts of the organization

SECOND SOVEREL
DECLARATION – 1
No. 2:20-cv-00417-RAJ-MLP

KAMPMEIER & KNUTSEN PLLC
1300 S.E. Stark Street, Suite 202
Portland, Oregon 97214
(503) 841-6515

CORR CRONIN, LLP
1001 Fourth Avenue, Suite 3900
Seattle, Washington 98154
(206) 625-8600

1 through direct financial contributions and by serving as a standing declarant in the organization's
2 lawsuits. I also work closely and collaborate with Wild Fish Conservancy in my professional
3 capacity as President and CEO of Conservation Angler, a non-profit watch-dog organization that
4 seeks to hold public agencies, countries, and nations accountable for protecting and conserving
5 wild fish for present and future generations.
6

7 3. I have been interested and engaged with the Pacific Northwest ecosystem for 50
8 years. I enjoy fishing throughout Puget Sound, the Washington Coast, and the Columbia River
9 basin for native fish, including Chinook salmon, steelhead, and other salmon species; observing
10 sea life, including the Southern Resident killer whales and other wildlife that depend on Chinook
11 salmon and other fish stocks; and working to protect and restore wild fish populations in the
12 Pacific Northwest. I moved to Washington in 1968 to be near wild salmon, and I have been near
13 wild salmon in the Puget Sound area ever since. I have fished all around the Puget Sound basin,
14 including the Green River, Dungeness Sammamish, Snohomish, Skykomish, Snoqualmie,
15 Stillaguamish, Skagit, Nooksack, Nisqually Rivers, and Hood Canal, to name a few. I fish in
16 Puget Sound rivers roughly 50 to 60 days per year, and I will continue fishing in Puget Sound
17 rivers regularly for as long as I am able to do so. I observe wildlife in the Puget Sound daily, and
18 I will continue to do so for as long as I am able. I have also fished for salmon, including
19 Chinook, in the Columbia River and its tributaries and on the Washington coast, and I intend to
20 do so in the future if I can lawfully do so without harming their recovery.
21
22

23 4. I will engage in the Puget Sound, Washington, and Columbia River ecosystems
24 for years to come, but I am gravely concerned about the survival and recovery of Chinook
25 salmon and Southern Resident killer whales, upon which my recreation and livelihood depend. I
26 have personally witnessed the significant decline in wild salmon and orca populations over the
27
28

years, and I believe that decline is, in part, caused by the commercial and sport salmon fisheries in Southeast Alaska. I am concerned that those fisheries over-harvest and hinder the survival and recovery of species listed under the Endangered Species Act (“ESA”). I am concerned that the National Marine Fisheries Service (“NMFS”) has continued to fund management of the fisheries and has not sufficiently restricted harvest, instead continuing to let Alaska operate the fisheries at an unsustainable level. I find it particularly disconcerting that, instead of reducing commercial harvests to protected imperiled species, NMFS has developed and relied upon a hypothetical and ill-advised increase in hatchery production to feed killer whales. I believe increasing hatchery production is part of the problem, not the solution, and it will further harm ESA-listed species and my interests in them. I am concerned that NMFS has not adequately analyzed the impacts to ESA-listed species under the ESA or under the National Environmental Policy Act (“NEPA”). Without a complete analysis, NMFS cannot possibly make the best decision for ESA-listed salmonids, including Southern Resident killer whales and Chinook. My concerns significantly decrease my enjoyment of the Puget Sound, Washington Coast, and Columbia River ecosystems and ESA-listed species. If NMFS were made to consult again under the ESA to fully vet the impacts of the Southeast Alaska fisheries and its proposed hatchery mitigation on ESA-listed species, and were made to prepare a proper NEPA analysis, conditions for ESA-listed species would improve and would remedy the harm to the Puget Sound ecosystem and to me personally.

5. My recreational and professional interests in wild salmon and the Puget Sound have been steady over the past 50 years, and I enjoy all wild salmon, including ESA-listed Chinook. Wild salmon are amazing creatures and one of God’s great inventions. Salmon are born in inland waters and migrate thousands of miles. Some swim all the way to Japan. Others spawn at four- or five-thousand feet above sea level. The loss of my opportunities to see and angle for

1 wild ESA-listed salmon in the Puget Sound area, and also on the Washington coast and in the
2 Columbia River basin, is a serious loss for me.

3 6. I moved to Washington State in December 1968 specifically to engage with the
4 wild fish populations. My mother sent my photos of wild steelhead while I was on a 13-month
5 combat tour with the U.S. Navy in the Mekong Delta, Vietnam. The Navy was sending me to
6 graduate school and I had a choice of Tufts University (Boston), Georgetown University
7 (Washington DC), or the University of Washington (Seattle). All are fine universities, but only
8 the University of Washington provided the prospect of regular interactions with wild fish. I have
9 been a serious wild steelhead angler and angler of other fish since that time. And although I have
10 fished my entire life and experienced angling around the globe from Yugoslavia to western
11 Russia, Norway, Sweden, Austria, German, Belgium, UK, eastern Canada, the Bahamas,
12 Argentina, Chile, Mexico, Panama, New Zealand and Kamchatka Russia, I am, first and
13 foremost, a Washington fly fisher. I have fished the rivers of the Puget Sound basin hundreds of
14 times over the past 50 years for salmon. They are my “home” rivers, but my ability to fish and
15 enjoy them is hindered by the continual population decline of wild ESA-listed salmon. I am
16 restricted from my primary source of recreation and relaxation and the opportunity to interact
17 with the object of my affections.

18 7. For example, I have fished the Nooksack River roughly 50 times in my life, but I
19 have not fished in that river for 10 years or so. I used to fish in the Nooksack for Chinook,
20 steelhead, and sea run cutthroat trout. But now there are few to no wild fish there, so I can no
21 longer fish there. I used to fish the Dungeness River and have fished there for Chinook,
22 steelhead, and sea run cutthroat trout around 25 times, but I have not fished there for 10 years or
23 so, again because there are few to no wild fish anymore. I have fished in the Stillaguamish River

1 for Chinook, steelhead, and sea run cutthroat trout approximately a couple hundred times over
2 the years, most recently 7 or 8 years ago, but I have had to stop because there are few to no wild
3 fish there. I wish I could return to these areas to fish, but that will not happen until wild
4 populations recover. I believe increasing Chinook hatchery programs on these river, in a
5 supposed effort to offset continued overfishing in Southeast Alaska, will make it even less likely
6 I can ever return to these rivers to fish for wild Chinook because I have seen first-hand the
7 adverse effects of hatchery programs on wild populations. I am concerned NMFS's proposed
8 hatchery mitigation will decimate the small remaining wild Chinook populations. I wish wild
9 populations would recover, and I would be able to fish in these rivers again.
10
11

12 8. I have fished in Hood Canal for Chinook, steelhead, and sea run cutthroat trout
13 probably 5 times over the years, most recently about 15 years ago. I have not fished there
14 recently because the rivers are small and populations are low making it difficult to catch fish. I
15 believe a Chinook hatchery program will harm populations already struggling in Hood Canal,
16 making it unlikely I can ever return to Hood Canal to fish.
17

18 9. I used to love fishing on the Washington coast. For 25 years, I would rent a house
19 in Forks, Washington, and fish on the Washington coast for Chinook, steelhead, sea run cutthroat
20 trout, and Coho. I stopped taking these trips 6 or 7 years ago, because there were too few fish and
21 too many people. I wish wild ESA-listed fish populations, including Chinook, on the coast and
22 throughout Washington would increase, so that I could take this trip again and fish for Chinook.
23 With a Chinook hatchery program on the coast, it is unlikely I would ever return, as I believe
24 populations of wild Chinook would only further decrease as a result of the hatchery.
25
26

27 10. With river closures and abysmal numbers of wild populations throughout Puget
28 Sound and the Washington coast, I have recently relied more and more on the Columbia River
29

1 and its tributaries for fishing opportunities. I have fished most or all of the rivers in the Columbia
2 and Snake River drainage in Washington and Oregon. I have probably taken 300 fishing trips to
3 the Columbia or its tributaries throughout my life. To name a few, I have fished the Elochoman,
4 Grays, Wind, Klickitat, Kalama, Cowlitz, and Washougal Rivers. While I have fished these
5 rivers for pretty much all species of fish, I mostly fish for Chinook and steelhead. My most
6 recent trip was 2-3 years ago, when I fished the Deschutes, John Day, and Kalama Rivers for
7 Chinook and steelhead. I intend to return to the Columbia River and its tributaries to fish for
8 Chinook and steelhead, because even though wild populations are low here, there are still fishing
9 opportunities—opportunities that no longer exist in many rivers in Puget Sound. However, I
10 believe increased Chinook hatchery programs in this area, coupled with continued overharvests,
11 would decrease my opportunities to catch wild Chinook, and I am less likely to return to the
12 areas impacted by the hatchery programs.
13
14

15 11. As I mentioned, because there are so few Puget Sound Chinook left, I have not
16 had as many experiences with them over the past few years in my “home” rivers. I used to be
17 able to have prime fishing opportunities for Chinook and steelhead in Puget Sound rivers
18 throughout the month of March. But now many of my home rivers have populations so depleted
19 that they are usually closed for fishing Puget Sound Chinook. Others are open for short spring
20 fishing seasons, usually in May.
21
22

23 12. Because I can no longer fish for Chinook and steelhead in Puget Sound rivers in
24 March, for the past few years I have been going to British Columbia for March and April to fish
25 for Chinook and steelhead on the Skeena River. I went to the Skeena for fishing in March and
26 April 2019, as well as August 2019. I had that trip scheduled for March and April 2020, but I had
27 to cancel because of the coronavirus pandemic. If the pandemic restrictions allow, I will likely
28
29

1 schedule that trip again for March and April of 2021 because I anticipate Chinook and steelhead
2 populations in Puget Sound will remain dismal. I would love to stay in Washington in March and
3 April and fish for wild Chinook and steelhead if there were enough fish.

4 13. While I continue to fish in Puget Sound rivers 50-60 times a year, I have not
5 caught a wild Chinook here for several years. In fact, I would feel guilty for catching and killing
6 one because their populations are so low that it could harm their recovery. I wish I could feel
7 comfortable catching Chinook in the Puget Sound rivers.
8

9 14. In addition to traveling throughout the Puget Sound, Washington, Oregon, and
10 Canada to enjoy Puget Sound Chinook and other salmonids, I get to enjoy the ecosystem created
11 by these precious creatures from the comfort of my own home. I live on a bluff above Puget
12 Sound. From the window of my house, I enjoy watching Southern Resident killer whales and
13 many other species that live in the Sound. When I see a Southern Resident killer whale from my
14 house, it is always the highlight of my day. Many of the animals I view, like the resident orcas,
15 depend on salmon, so threats to wild ESA-listed salmon threaten my enjoyment of wildlife
16 viewing from my house. At the bottom of my bluff, I can go fishing at Meadowdale Park. During
17 these fishing trips, which I enjoy two to three times per month, I catch an array of salmon, and I
18 wish I did not have to worry about the harm I could cause by catching the precious few
19 remaining Chinook.
20
21
22

23 15. Every year in June, I travel to the San Juan Islands with my wife on our
24 anniversary. One of the highlights of our annual trips is driving to the west side of the island to
25 watch for Southern Residents, have a glass of wine, and enjoy a picnic. We pretty much always
26 see orcas on these trips, including in June 2019. While we were not able to take this trip in June
27 2020 because of the coronavirus pandemic, we intend to take this trip annually for years to come,
28

1 as long as we remain able to do so. I fear there may be a time in the near future when we will no
 2 longer see the orcas on our trips, and that would devastate us.

3 16. I will continue recreating and enjoying ESA-listed species, including Puget Sound
 4 Chinook and Southern Residents, in whatever ways I can given their population decline. I will
 5 continue observing wildlife from my house, taking trips to the San Juans, and fishing throughout
 6 Puget Sound many times each year. If Chinook and Southern Resident populations recovered, I
 7 could enjoy them more. If Chinook populations recovered, I could stay in Washington in March
 8 and fish in my home rivers.
 9

10 17. Not only is my recreation centered around wild salmon in Puget Sound, but since
 11 retiring in 1990 after a thirty-year career in the Navy, I have devoted my professional life to
 12 preserving and conserving wild salmon. In 1992, I founded the Wild Salmon Center, the largest
 13 international salmon conservation group around the Pacific Rim working to protect wild salmon
 14 around the Pacific Rim. I am also the founder of Wild Salmon Rivers, another non-profit
 15 organization devoted to wild salmon, and I was the chairmen of the Steelhead Committee of the
 16 Federation of Fly Fishers for approximately 10 years. Additionally, I was:
 17

- 18 • Board member, Steelhead Society of British Columbia 1990-2000;
- 19 • Board member Habitat Conservation Corporation 1995-2000;
- 20 • Member, Washington delegation to the North Pacific Anadromous Fish Commission 1993-
- 21 2005;
- 22 • Founding Board member Save our *Wild* Salmon;
- 23 • Founder, Wild Steelhead & Biodiversity Foundation (Kamchatka Russia);
- 24 • Publisher of *The Osprey: Journal of Steelhead Conservation* 1990-2000; and
- 25 • Editorial Board member of *The Osprey: Journal of Steelhead Conservation*.
- 26
- 27
- 28

1 I have received numerous awards for my conservation work including conservationist of the year
2 Federation of Fly Fishers (1993) and Conservationist of the Year, Steelhead Society of British
3 Columbia (2001). As a professional conservationist, I am exceedingly distressed by the rapid
4 decline in ESA-listed salmonids and the huge loss in angling opportunity for Washington State.

5 18. I have observed the significant population decline of wild salmon over the years.
6 Puget Sound is an enormous body of water with a couple hundred streams and rivers of various
7 sizes. When I first moved to Washington, these rivers used to be full of fish, and many rivers and
8 creeks were open 12 months per year. The rivers of the Puget Sound Basin make up a very
9 diverse collection of rivers and streams that offer a wide variety of angling opportunities.
10 Additionally, given their different characteristics, they respond differently to weather events
11 rising and dropping at very different rates in response to winter storms and then dry periods
12 between storms. Angling is typically best when rivers just come into “shape”—that is the rivers
13 are dropping in level and clearing. When the river flows are higher, typically the river is not
14 suitable for angling. Similarly, when the rivers have dropped substantially, they become low,
15 clear and cold—again less than ideal angling conditions. A knowledgeable angler can select from
16 a large suite of Puget Sound rivers to pick the ones that are, at that moment, suitable for angling.
17 When I first moved here, I was able to pick from the rivers for the best angling opportunities
18 throughout the entire year.

19 19. As I indicated above, I have stopped fishing in many of these rivers due to the
20 decline of wild stocks and the resulting closures of fishing opportunities during times that I want
21 to fish. In areas where I do fish, I am less able to enjoy fishing as a result of reduced angling
22 opportunity. Even in those areas that remain open to angling, my recreation is reduced because
23 of the uncertainty about the impact of my angling on the depressed ESA-listed salmonid
24
25
26
27
28

1 population. Virtually all Puget Sound rivers close for portions of the year, dramatically
2 restricting my opportunities to fish and reducing the complexity and diversity of rivers for me to
3 choose from throughout the year. Given that I moved to Washington for the purpose of
4 interacting with wild salmonids, the loss of opportunities for fishing and the reduction of my
5 enjoyment of fishing is a serious loss for me. I am concerned that, if we do not change our ways
6 to better protect ESA-listed wild salmonids, they will soon be extinct.

8 20. I believe recovery efforts for ESA-listed wild salmonids is actually hindered by
9 hatchery programs, and I am very concerned about the impacts to ESA-listed Chinook if NMFS
10 increases hatchery production throughout Puget Sound, the Washington coast, and the Columbia
11 River. These concerns translate to concerns about my interests in fishing for wild Chinook and
12 harm to me for my loss of fishing opportunities.

14 21. Indeed, I have personally observed harm from hatchery operations on the Elwha
15 River. Since the Elwha dam was removed in 2012, I have followed and observed changes to wild
16 fish populations there. While Chinook hatcheries continue to release millions of Chinook
17 annually, wild Chinook populations are showing no or minimal signs of recovery. In contrast, for
18 summer run steelhead, which does not have a hatchery program, populations have increased
19 from 0 to 1000 wild summer run steelhead in the past 10 years. Pink salmon, sockeye, and bull
20 trout have also seen increasing populations and these fish also do not have hatchery programs on
21 the Elwha. While this alone seems to be prove that hatcheries are not working, I actually went to
22 the Elwha for the release of hatchery Chinook and observed some of the many issues with these
23 programs. In two days in April and May, the hatchery releases millions of Chinook. Three or
24 four years ago, I went to the Elwha to observe the release, and I saw probably 50 thousand
25 predators—crows, cormorants, eagles, osprey, and more—waiting to eat as many fish as they
26
27
28

1 could. From my understanding, hatchery programs have always had problems like this. Based on
 2 my experience, I have serious concerns that hatcheries draw predators to the river, harming both
 3 hatchery and wild fish, and I would be skeptical that I could have any positive angling
 4 opportunities in rivers with Chinook hatchery programs. I would need very clear evidence from
 5 NMFS to show me, Wild Fish Conservancy, and the broader public why its proposed hatchery
 6 programs here would not harm ESA-listed species before NMFS took any actions in reliance on
 7 the proposed hatcheries.
 8

9 22. It is my understanding that Wild Fish Conservancy's complaint in this lawsuit
 10 alleges numerous violations against the NMFS, U.S. Department of Commerce, and some of
 11 those agencies' officials related to their failure to comply with the ESA and NEPA for NMFS'
 12 ongoing management over, ESA authorization of, and delegation of authority to, the State of
 13 Alaska for commercial and sport salmon fisheries in Southeast Alaska. I am greatly concerned
 14 about the effects of those fisheries, including the effects to ESA-listed Chinook salmon and
 15 Southern Residents, and about NMFS's failure to fully and adequately evaluate such effects
 16 under the ESA and NEPA. I am particularly concerned about NMFS's assumption that new
 17 hatchery production will offset harm from the harvests, and while I am skeptical that it will
 18 offset harm to ESA-listed Southern Residents, I am very concerned it will harm remaining wild
 19 ESA-listed Chinook populations. My concerns diminish my enjoyment of fishing and observing
 20 wildlife, including Southern Residents, throughout the Pacific Northwest region. My concerns
 21 make it less likely that I can return to several of my "home" rivers in the Puget Sound ecosystem,
 22 and to the Washington coast to fish for Chinook. My concerns make it less likely I can return to
 23 the Columbia River for Chinook fishing—one of the few places I can still fish. I believe these
 24 "interception fisheries," as I call them, are directly responsible for the inability of ESA-listed
 25
 26
 27
 28

Chinook and orcas to recover because they intercept wild fish that would otherwise return to Washington, other parts of the United States, and Canada. Chinook salmon generally grow to a large size that is most desirable to orcas by staying in the ocean, but the longer Chinook stay in the ocean, the more likely they are to get harvested by the interception fisheries at issue. The fisheries catch too many fish that do not belong to them, including the large Chinook salmon that Southern Residents need to survive, ensuring that Southern Residents and ESA-listed Chinook will soon be extinct. I do not think the proposed hatchery mitigation will offset the adverse impacts, and I am particularly concerned that NMFS has not analyzed its proposed mitigation and considered whether it is supported by science before relying on that mitigation to offset the fisheries' impacts. NMFS's efforts to oversee these interception fisheries and the mitigation plan it has outlined for these fisheries has not worked and will not work if it continues to prioritize harvesting and future hatchery mitigation over the species' current recovery needs.

23. I understand that these fisheries can be profitable, but I think NMFS must fully consider the effects of these fisheries and its proposed mitigation on ESA-listed species. In doing so, NMFS must consider and follow the science to come to the logical conclusion that these fisheries and the proposed hatchery increases are threatening the continued existence of wild salmon and Southern Residents. NMFS must consider whether these fisheries and the hatchery mitigation should continue to operate when wild Chinook salmon and Southern Resident populations are so severely depleted. Only in ESA consultation and NEPA analysis with full consideration and weight of the adverse effects and possible alternatives should NMFS make its decision about these fisheries and the proposed mitigation. NMFS needs to listen to their science and make the conclusions in accordance with the ESA. If NMFS were made to comply with the ESA and NEPA and were held accountable to Washington and the many citizens who use and

1 enjoy the Pacific Northwest ecosystem, the harm caused by the Southeast Alaska fisheries and
2 the proposed hatchery mitigation to my interests in Puget Sound, the Washington coast, and the
3 Columbia River basin would be remedied.

4
5 I declare under penalty of perjury under the laws of the United States of America that the
6 foregoing is true and correct.

7
8 Executed this 28th day of April, 2021 at Edmonds, Washington.
9

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29



Peter W. Soverel